

**U.S. District Court
Northern District of Ohio (Akron)
CIVIL DOCKET FOR CASE #: 5:06-cv-02389-DDD
Internal Use Only**

Old Reliable Wholesale, Inc. v. Cornell Corporation
Assigned to: Judge David D. Dowd, Jr
Cause: 35:271 Patent Infringement

Date Filed: 10/03/2006
Date Terminated: 03/24/2009
Jury Demand: Both
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff

Old Reliable Wholesale, Inc.
An Ohio Corporation

Pat. # 5,069,950

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07/14/2008	<u>55</u>	Affidavit/Declaration <i>Certifying Memorandum in support of Motion for Summary Judgment complies with LR 7.1(f)</i> filed by Old Reliable Wholesale, Inc.. Related document(s) <u>53</u> . (McCue, Shannon) (Entered: 07/14/2008)
07/24/2008	<u>56</u>	Unopposed Motion for leave to exceed page limit filed by Plaintiff Old Reliable Wholesale, Inc., Counter-Defendant Old Reliable Wholesale, Inc.. (McCue, Shannon) (Entered: 07/24/2008)
07/25/2008	<u>57</u>	Amended Motion for leave to extend page limits filed by Plaintiff Old Reliable Wholesale, Inc., Counter-Defendant Old Reliable Wholesale, Inc.. (McCue, Shannon) (Entered: 07/25/2008)
07/25/2008	<u>58</u>	Marginal Entry Order granting Plaintiff's Motion for leave to file a memorandum in opposition with an additional 10 pages in excess of the 20 page limit and the same extension of the page limit (10 pages) is granted to Cornell Corporation for its reply. (Related Doc # <u>56</u> , <u>57</u>) Signed by Judge David D. Dowd, Jr on 7/25/2008.(P,G) (Entered: 07/25/2008)
08/01/2008	<u>59</u>	Opposition to 54 Motion for summary judgment of patent invalidity filed by Old Reliable Wholesale, Inc.. (Attachments: # <u>1</u> Affidavit Declaration of R. Eric Gaum, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3 (under seal), # <u>5</u> Exhibit 4, # <u>6</u> Exhibit 5, # <u>7</u> Exhibit 6, # <u>8</u> Exhibit 7, # <u>9</u> Exhibit 8, # <u>10</u> Exhibit 9 (under seal), # <u>11</u> Exhibit 10 (under seal), # <u>12</u> Exhibit 11 (under seal), # <u>13</u> Exhibit 12 (under seal), # <u>14</u> Exhibit 13 (under seal), # <u>15</u> Exhibit 14, # <u>16</u> Exhibit 15, # <u>17</u> Exhibit 16A (under seal), # <u>18</u> Exhibit 16B (under seal), # <u>19</u> Exhibit 17, # <u>20</u> Exhibit 18, # <u>21</u> Exhibit 19, # <u>22</u> Exhibit 20, # <u>23</u> Exhibit 21, # <u>24</u> Exhibit 22, # <u>25</u> Exhibit 23, # <u>26</u> Exhibit 24, # <u>27</u> Exhibit 25, # <u>28</u> Exhibit 26)(Gaum, Richard) Modified text on 8/4/2008 (P,G). (Entered: 08/01/2008)
08/01/2008	<u>60</u>	Plaintiff's Brief in Opposition to Defendant's Motion for Summary Judgment of Patent Invalidity and Exhibits 3,9,10,11,12,13,16A and 16B to same filed by Old Reliable Wholesale, Inc. FILED UNDER SEAL, #4509 Related document(s) <u>25</u> , <u>59</u> . (R,Sh) Modified on 8/4/2008 to create link (Page, Gina). (Entered: 08/01/2008)
08/01/2008	<u>61</u>	Opposition to 53 Motion for summary judgment of Patent Infringement filed by Cornell Corporation. (Attachments: # <u>1</u> Certificate of Counsel, # <u>2</u> Proposed Order, # <u>3</u> Affidavit Declaration of Matthew J. Schaap (Second), # <u>4</u> Exhibit 1 to Second Declaration of Matthew J. Schaap, # <u>5</u> Exhibit 2 to Second Declaration of Matthew J. Schaap, # <u>6</u> Exhibit 3 to Second Declaration of Matthew J. Schaap)(Schaap, Matthew) (Entered: 08/01/2008)
08/15/2008	<u>62</u>	Reply to response to <u>54 Motion</u> for summary judgment on patent invalidity (filed manually under seal) filed by Cornell Corporation. (Attachments: # <u>1</u> Certificate of Counsel, # <u>2</u> Affidavit /Declaration of Matthew J. Schaap (Third), # <u>3</u> Exhibit 1 (filed manually under seal) to Declaration of Matthew J. Schaap (Third), # <u>4</u> Exhibit 2 (filed manually under seal) to Declaration of Matthew J. Schaap (Third), # <u>5</u> Exhibit 3 (filed manually under seal) to Declaration of Matthew J. Schaap (Third), # <u>6</u> Exhibit 4 to Declaration of Matthew J. Schaap (Third), # <u>7</u> Exhibit 5 to Declaration of Matthew J. Schaap (Third), # <u>8</u> Exhibit 6 to Declaration of Matthew J. Schaap (Third), #

		9 Exhibit 7 to Declaration of Matthew J. Schaap (Third), # 10 Exhibit 8 to Declaration of Matthew J. Schaap (Third))(Schaap, Mathew) (Entered: 08/15/2008)
08/15/2008	63	Reply to response to <u>53 Motion</u> for summary judgment of <i>Patent Infringement</i> (filed under seal), filed by Old Reliable Wholesale, Inc. (Attachments: # 1 Exhibit 27 (filed under seal), # 2 Exhibit 28 - A. Crookston III dep, # 3 Exhibit 29 - J Rice dep)(Gaum, Richard) Modified text to add sealed log # 4527 on 8/15/2008, Related document 26 . (R,Sh) (Entered: 08/15/2008)
08/15/2008	64	Reply Memorandum In Support of <u>54 Motion</u> for Summary Judgment on Invalidity and Exhibits 1-3 to Third Declaration of Matthew J. Schaap filed by Cornell Corporation. FILED UNDER SEAL, #4526. Related documents 25 , 26 , 62 . (R,Sh) Modified on 8/18/2008 to create link(Page, Gina). (Entered: 08/15/2008)
08/15/2008		(Court only) Staff Notes: T/C w/Ray Fralic. He is still having ECF problems and has not yet filed a notice of appearance. He said he is working with Colleen Gallagher in the Cleveland office to help him. Promised to call Monday to update me re the status of his filing. (D,SA) (Entered: 08/15/2008)
08/18/2008	65	Motion for leave to File Corrected Reply Brief filed by Plaintiff Old Reliable Wholesale, Inc., Counter-Defendant Old Reliable Wholesale, Inc.. (Gaum, Richard) (Entered: 08/18/2008)
08/18/2008		(Court only) Staff Notes: Staff Note on 8/15 filed in error in this case. Should have been filed in 7 CV 3431. (D,SA) (Entered: 08/18/2008)
08/19/2008	66	Marginal Entry Order granting Plaintiff's Motion for leave to file corrected reply brief (Related Doc # 65). Signed by Judge David D. Dowd, Jr. on 8/19/08. (M,De) (Entered: 08/19/2008)
08/19/2008	67	Corrected Reply to response to <u>53 Motion</u> for summary judgment of <i>Patent Infringement (Corrected and Filed Under Seal)</i> filed by Old Reliable Wholesale, Inc.. (Attachments: # 1 Exhibit 7 (filed under seal), # 2 Exhibit 8, # 3 Exhibit 9)(Gaum, Richard) Modified text on 8/19/2008 (M,KR). (Entered: 08/19/2008)
08/19/2008	68	Corrected Reply in Support of Summary Judgment of Patent Infringement filed by Old Reliable Wholesale, Inc. FILED UNDER SEAL #4530. Related document(s) 67 , 53 . (M,KR) (Entered: 08/19/2008)
08/27/2008	69	Motion for leave to File Surreply to Defendant Cornell Corporation's Motion for Summary Judgment of Invalidity filed by Plaintiff Old Reliable Wholesale, Inc., Counter-Defendant Old Reliable Wholesale, Inc.. Related document(s) 59 , 54 , 64 , 62 . (Attachments: # 1 Pleading ORW's proposed surreply, # 2 Exhibit 27, # 3 Exhibit 28, # 4 Exhibit 29, # 5 Exhibit 30, # 6 Exhibit 31, # 7 Exhibit 32, # 8 Exhibit 33, # 9 Exhibit 34, # 10 Exhibit 35) (McCue, Shannon) (Entered: 08/27/2008)
08/28/2008	70	Marginal Entry Order granting Old Reliable Wholesale's Motion for leave

		to file a surreply to defendant Cornell Corp.'s Motion for Summary Judgment (Related Doc # 69). Signed by Judge David D. Dowd, Jr. on 8/28/08. (M,De) (Entered: 08/28/2008)
08/29/2008	<u>71</u>	Sur-Reply to Defendant Cornell Corporation's <u>54</u> Motion for summary judgment of <i>Invalidity</i> filed by Old Reliable Wholesale, Inc.. (Attachments: # <u>1</u> Exhibit 27, # <u>2</u> Exhibit 28, # <u>3</u> Exhibit 29, # <u>4</u> Exhibit 30, # <u>5</u> Exhibit 31, # <u>6</u> Exhibit 32, # <u>7</u> Exhibit 33, # <u>8</u> Exhibit 34, # <u>9</u> Exhibit 35)(Gaum, Richard) (Entered: 08/29/2008)
08/29/2008	<u>72</u>	Exhibit(s) 27,30,31,32,33,34 and 35 filed by Old Reliable Wholesale, Inc. FILED UNDER SEAL, #4540. Related document(s) <u>71</u> . (R,Sh) (Entered: 08/29/2008)
08/29/2008		(Court only) Staff Notes: Katrina Klatka from Attorney's office for Plaintiff called to say that docket #71 was signed by attorney Shannon McCue but log in was under Attorney Eric Gaum. She indicated their office is aware of the mistake. Related document(s) <u>71</u> . (M,TL) (Entered: 08/29/2008)
09/05/2008	<u>73</u>	Motion for leave to file Sur-Surreply to Plaintiff's Surreply filed by Counter-Claimant Cornell Corporation, Defendant Cornell Corporation. Related document(s) <u>72</u> , <u>71</u> . (Attachments: # <u>1</u> Cornell Corporation's PROPOSED Sur-Surreply, # <u>2</u> Exhibit 1 to Sur-Surreply, # <u>3</u> Exhibit 2 to Sur-Surreply, # <u>4</u> Exhibit 3 to Sur-Surreply)(Schaap, Matthew) (Entered: 09/05/2008)
09/10/2008		Order [non-document] granting Motion for leave to file Sur-Surreply to Plaintiff's Surreply filed by Counter-Claimant Cornell Corporation, and Defendant Cornell Corporation. (Related Doc # <u>73</u>). It is counsel's responsibility to electronically file the Sur-Surreply. Approved by Judge David D. Dowd, Jr on 9/9/08. (M,De) (Entered: 09/10/2008)
09/10/2008	<u>74</u>	Sur-Surreply In Support of <u>54</u> Motion for summary judgment filed by Cornell Corporation. (Attachments: # <u>1</u> Exhibit 1 to Sur-Surreply, # <u>2</u> Exhibit 2 to Sur-Surreply, # <u>3</u> Exhibit 3 to Sur-Surreply)(Schaap, Matthew) Modified text on 9/11/2008 (M,KR). (Entered: 09/10/2008)
03/24/2009	<u>75</u>	Memorandum Opinion that Cornell's motion for summary judgment (ECF <u>54</u>) that the '950 Patent is invalid pursuant to 35 U.S.C. §§ 102 and 103 is Granted. Old Reliable's motion for summary judgment (ECF <u>53</u>) that defendant infringed the '950 Patent is Denied. In its counterclaims against Old Reliable, Cornell sought attorney fees pursuant to 35 U.S.C. § 285. (See ECF <u>8</u>). Section 285 gives the Court discretion to award attorney fees to prevailing parties "in exceptional cases." The issue of attorney fees has not been briefed. If Cornell desires to pursue attorney fees, a brief in support of a fee award should be filed by April 17, 2009. Old Reliable may respond by May 1, 2009, and Cornell may reply by May 8, 2009. Signed by Judge David D. Dowd, Jr. on 3/24/2009. (Attachments: # <u>1</u> Attachment 1) (M,De) (Entered: 03/24/2009)
03/24/2009	<u>76</u>	Judgment Entry that for the reasons set forth in the Memorandum Opinion <u>75</u> filed contemporaneously with this Judgment Entry, 1) Defendant Cornell's motion for summary judgment (ECF <u>54</u>) that the '950 Patent is invalid pursuant to 35 U.S.C. §§ 102 and 103 is Granted; and 2) Plaintiff Old

	Reliable's motion for summary judgment (ECF 53) that defendant infringed the '950 Patent is Denied. Signed by Judge David D. Dowd, Jr. on 3/24/2009. (M,De) (Entered: 03/24/2009)
04/09/2009	(Court only) Complaint, final decision and docket sheet mailed to Patent and Trademark office. (K,Ca) (Entered: 04/09/2009)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

OLD RELIABLE WHOLESALE, INC.,)	
250 South Van Buren Ave.)	Case No.:
Barberton, Ohio 44203)	
)	
Plaintiff,)	Judge:
)	
v.)	
)	
CORNELL CORPORATON)	
808 South 3rd Street)	<u>COMPLAINT FOR</u>
Cornell, WI 54732)	<u>PATENT INFRINGEMENT</u>
)	
Defendant.)	JURY TRIAL DEMANDED

Plaintiff, Old Reliable Wholesale, Inc. ("ORW"), for its Complaint against Defendant, Cornell Corporation ("Cornell"), hereby demands a jury trial and alleges as follows:

PARTIES

1. ORW is a corporation organized under the laws of the State of Ohio, with its principal place of business at 250 South Van Buren Ave., Barberton, Ohio 44203
2. On information and belief, Cornell is a corporation organized under the laws of the State of Wisconsin, with a principal place of business at 808 South 3rd Street, Cornell, Wisconsin 54732.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 271 *et seq.*

4. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

5. Defendant has committed acts of patent infringement in the Federal District for the Northern District of Ohio and elsewhere throughout the United States.

6. Venue is proper in this Court under 28 U.S.C. §§ 1391(c) and 1400(b), in that Cornell is subject to personal jurisdiction in this district and therefore resides in this district, and Cornell has and is committing acts of infringement in this district.

FACTUAL BACKGROUND

7. On December 3, 1991, U.S. Patent No. 5,069,950 ("the '950 patent") was issued to Anthony J. Crookston, Sr. for an invention entitled INSULATED ROOF BOARD. ORW is the sole owner of the entire right, title, and interest in the '950 patent by virtue of assignment. A copy of the '950 patent is attached hereto as Exhibit A.

8. On information and belief, Cornell is willfully and deliberately infringing the '950 patent by importing, manufacturing, using, offering for sale, and/or selling insulated roof boards under the product names "Vent-Top Thermacal 1" and "Vent-Top Thermacal X¹." Copies of Cornell's promotional materials illustrating and describing its insulated roof boards are attached as Exhibit B and Exhibit C.

9. Cornell's products are being imported, manufactured, used, sold and/or offered for sale without permission or license from ORW, and Cornell will continue such infringement unless enjoined by this Court. The importation, manufacture, use, offer for sale, and/or sale of such products in the United States are direct infringements of at least claims 1, 2, 3, 6, and 7 of the '950 patent.

10. As a direct and proximate result of Cornell's infringement of the '950 patent, ORW has suffered and continues to suffer damages.

11. The required statutory notice has been placed on any products sold by ORW that are protected by the '950 patent.

WHEREFORE, ORW respectfully requests judgment in its favor and an award of the following relief:

- a. permanent injunctive relief prohibiting Cornell, its agents, employees, licensees, and all those in privity with Cornell from engaging in acts of infringement of the '950 patent;
- b. an award of all damages recoverable under the United States Patent Laws;
- c. an award of treble damages for Cornell's willful infringement;
- d. an award of attorneys' fees to the extent permitted under 35 U.S.C. § 285;
- e. an award of all taxable costs; and
- f. such other and further legal and equitable relief as the Court deems appropriate.

Respectfully submitted,

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DOWD, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Old Reliable Wholesale, Inc.,)
Plaintiff,) CASE NO. 5:06 CV 2389
v.)
Cornell Corporation,)
Defendant.) JUDGMENT ENTRY

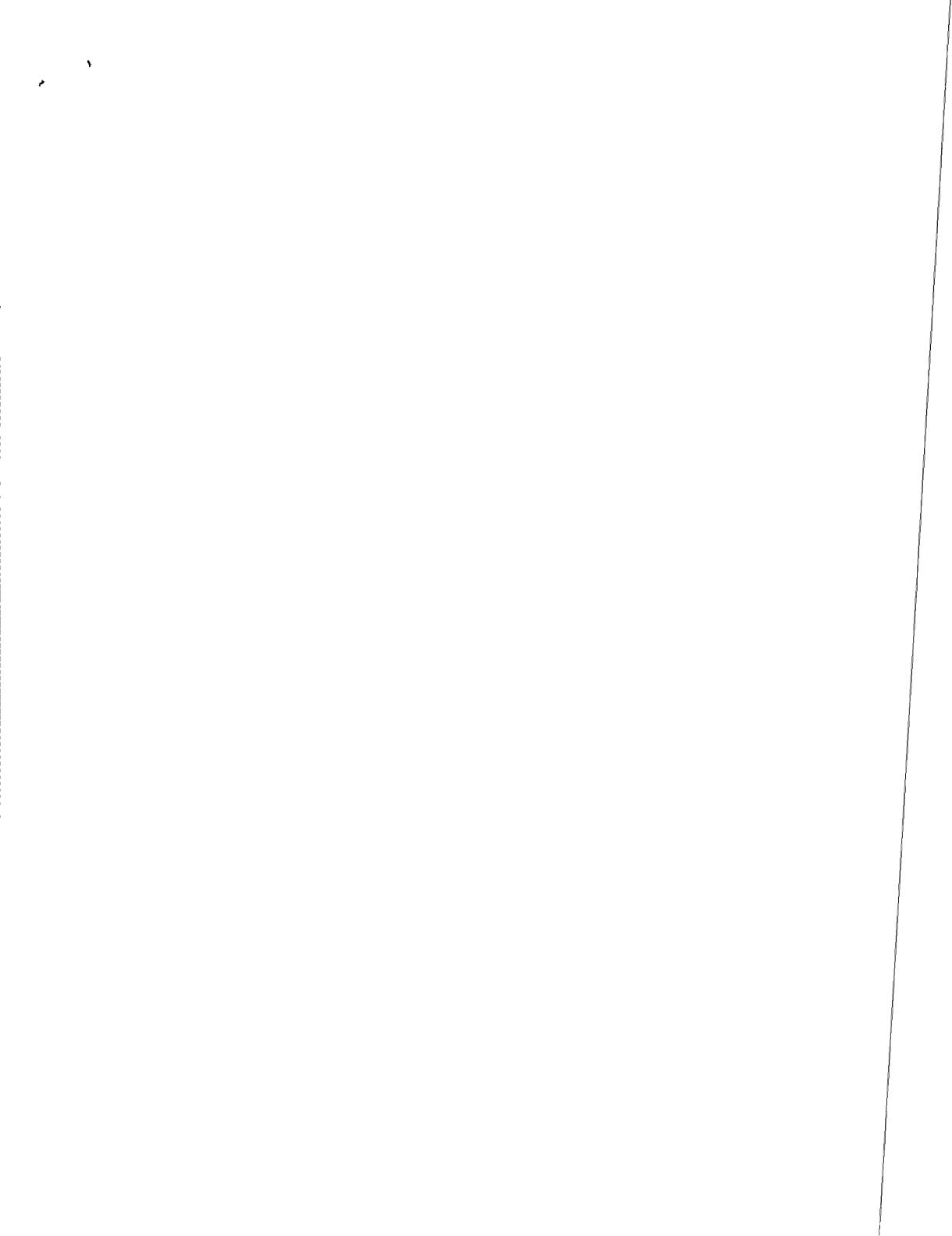
For the reasons set forth in the Memorandum Opinion filed contemporaneously with this Judgment Entry, IT IS HEREBY ORDERED, ADJUDGED and DECREED that:

- 1) Defendant Cornell's motion for summary judgment (ECF 54) that the '950 Patent is invalid pursuant to 35 U.S.C. §§ 102 and 103 is GRANTED; and
- 2) Plaintiff Old Reliable's motion for summary judgment (ECF 53) that defendant infringed the '950 Patent is DENIED.

IT IS SO ORDERED.

March 24, 2009
Date

s/ David D. Dowd, Jr.
David D. Dowd, Jr.
U.S. District Judge



V.

Defendant

Cornell Corporation

represented by **Gary L. Huusko**

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Counter-Claimant

Cornell Corporation

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Robert B. Bauer
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John M. Skeriotis
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V.

Counter-Defendant

Old Reliable Wholesale, Inc.
An Ohio Corporation

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ATTORNEY TO BE NOTICED

Walter E. Crooks
(See above for address)
LEAD ATTORNEY
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Shannon V. McCue
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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/03/2006	1	Complaint with jury demand against Cornell Corporation (Filing fee of \$350 paid; receipt number 2158257), filed by Old Reliable Wholesale, Inc.. (Attachments: # <u>1</u> Exhibit A to Complaint# <u>2</u> Exhibit B to Complaint# <u>3</u> Exhibit C to Complaint# <u>4</u> Civil Cover Sheet)(Gaum, Richard) Modified docket text on 10/3/2006 (R, N). (Entered: 10/03/2006)
10/03/2006		Judge David D. Dowd, Jr assigned to case. (R, N) (Entered: 10/03/2006)
10/03/2006		Random Assignment of Magistrate Judge pursuant to Local Rule 3.1. In the event of a referral, case will be assigned to Magistrate Judge Limbert. (R, N) (Entered: 10/03/2006)

10/03/2006		(Court only) Utility Event adding attorney Walter E. Crooks for Old Reliable Wholesale, Inc.. (R, N) (Entered: 10/03/2006)
10/03/2006	<u>2</u>	Supplement to <i>Complaint (Summons)</i> filed by Old Reliable Wholesale, Inc.. Related document(s) <u>1</u> . (Gaum, Richard) (Entered: 10/03/2006)
10/03/2006	<u>3</u>	Summons and Magistrate Consent Form issued to counsel for service upon Cornell Corporation. (Attachments: # <u>1</u> Magistrate Consent Form) (R, N) (Entered: 10/03/2006)
10/03/2006	<u>4</u>	Corporate Disclosure Statement filed by Old Reliable Wholesale, Inc.. (Gaum, Richard) (Entered: 10/03/2006)
02/01/2007	<u>5</u>	Order directing counsel for plaintiff to file documents or show cause by 2/12/2007, why case should not be dismissed for want of prosecution. Signed by Judge David D. Dowd Jr. on 2/1/2007. (M,De) (Entered: 02/01/2007)
02/06/2007	<u>6</u>	Return of Service Executed upon Cornell Corporation by personal service on 1-30-07 filed by Old Reliable Wholesale, Inc. Related document(s) <u>1</u> . (Crooks, Walter) Modified text on 2/7/2007 (S, T). (Entered: 02/06/2007)
02/16/2007	<u>7</u>	Motion for extension of time until March 5, 2007 to answer <i>Complaint</i> filed by Old Reliable Wholesale, Inc.. Related document(s) <u>6</u> . (Attachments: # <u>1</u> Proposed Order for Motion to Extend Time to Answer)(Crooks, Walter) (Entered: 02/16/2007)
02/20/2007		Order [non-document]granting <u>7</u> Motion for Extension of Time to Answer. Cornell Corporation's answer due 3/5/2007. Signed by Judge David D. Dowd Jr. on 2/20/07.(M,De) (Entered: 02/20/2007)
03/05/2007	<u>8</u>	Answer to Complaint with Jury Demand (Related Doc # <u>1</u>), Counterclaim against Old Reliable Wholesale, Inc. filed by Cornell Corporation. (Skeriotis, John) Modified text on 3/6/2007 (P, G). (Entered: 03/05/2007)
03/06/2007		Notice by Clerk that Cornell Corporation failed to file a corporate disclosure statement as required by Local Rule 3.13(b). (M,De) (Entered: 03/06/2007)
03/06/2007	<u>9</u>	Notice of Magistrate Consent form. (M,De) (Entered: 03/06/2007)
03/06/2007	<u>10</u>	Case Management Conference Scheduling Order with case management conference to be held on 4/27/2007 at 9:00 a.m. in Chambers 402 before Judge Hon. David D. Dowd Jr., Signed by Judge David D. Dowd Jr. on 3/6/2007. (Attachments: # <u>1</u> Discovery Plan# <u>2</u> Rule 30.1# <u>3</u> Map)(M,De) (Entered: 03/06/2007)
03/06/2007	<u>11</u>	Corporate Disclosure Statement filed by Cornell Corporation. (Skeriotis, John) (Entered: 03/06/2007)
03/09/2007	<u>12</u>	Motion for attorney Gary L. Huusko to Appear Pro Hac Vice Filing fee 100, receipt number 2369277. filed by Cornell Corporation. (Attachments: # <u>1</u> Exhibit A - Declaration of Gary L. Huusko)(Skeriotis, John) (Entered: 03/09/2007)
03/09/2007	<u>13</u>	Motion for attorney Matthew J. Schaap to Appear Pro Hac Vice Filing fee 100, receipt number 2369356. filed by Cornell Corporation. (Attachments: #

		<u>1</u> Exhibit A - Declaration of Matthew J. Schaap)(Skeriotis, John) (Entered: 03/09/2007)
03/09/2007	<u>14</u>	Motion for attorney Robert B. Bauer to Appear Pro Hac Vice Filing fee 100, receipt number 2369372. filed by Cornell Corporation. (Attachments: # <u>1</u> Exhibit A - Declaration of Robert B. Bauer)(Skeriotis, John) (Entered: 03/09/2007)
03/13/2007	<u>15</u>	Order granting Motions for appearance pro hac vice by attorneys Gary L. Huusko, Matthew J. Schaap, and Robert B. Bauer for Cornell Corporation (Related Doc # <u>12</u> , <u>13</u> , <u>14</u>). Signed by Judge David D. Dowd Jr. on 3/13/2007. (D,S) (Entered: 03/13/2007)
03/19/2007	<u>16</u>	Answer to <i>Cornell Corporation's Counterclaims</i> filed by Old Reliable Wholesale, Inc.. Related document(s) <u>8</u> . (Crooks, Walter) (Entered: 03/19/2007)
04/18/2007	<u>17</u>	Notice of Service of <i>Old Reliable Wholesale Inc.'s Initial Disclosures</i> filed by Old Reliable Wholesale, Inc.. (Gaum, Richard) (Entered: 04/18/2007)
04/20/2007	<u>18</u>	Report of Parties' Planning Meeting <i>Under Fed. R. Civ. P. 26(f) and LR 16.3 (b)(3)</i> . Parties do not consent to this case being assigned to the magistrate judge. filed by Old Reliable Wholesale, Inc., Cornell Corporation. (Gaum, Richard) (Entered: 04/20/2007)
04/20/2007	<u>19</u>	Notice of Service of <i>Cornell Corporation's Fed. R. Civ. P. 26(a)(1) Disclosures</i> filed by Cornell Corporation. (Schaap, Matthew) (Entered: 04/20/2007)
04/26/2007	<u>20</u>	Preliminary Estimate/Budget of Amount of Fees and Expenses filed by Old Reliable Wholesale, Inc.. (Gaum, Richard) (Entered: 04/26/2007)
04/26/2007	<u>21</u>	Preliminary Estimate/Budget of Amount of Fees and Expenses filed by Cornell Corporation. (Schaap, Matthew) (Entered: 04/26/2007)
04/27/2007		Minutes of proceedings [non-document]. Case Management Conference held on 4/27/07 before Judge David D. Dowd Jr. Time: 60 Minutes. (Court Reporter none) (M,De) (Entered: 04/27/2007)
04/27/2007	<u>22</u>	Order regarding case management conference held on 4/27/07. All discovery and proceedings are stayed until 5/25/07. If case has not settled by then, fact discovery due by 10/12/2007. If experts will be used for Markman purposes, their reports to be served by 8/3/07 and after expert reports are completely exchanged, expert depositions may be conducted and completed by 10/12/07. Status Conference set for 10/19/2007 at 12:00 noon in Chambers 402 before Hon. David D. Dowd Jr. Signed by Judge David D. Dowd Jr. on 4/27/07.(M,De) (Entered: 04/27/2007)
05/01/2007	<u>23</u>	Case Management Conference Plan/Order placing case on Standard Track. Status Conference set for 10/19/2007 at 12:00 noon in Chambers 402 before Hon. David D. Dowd Jr. Discovery due by 10/12/2007. Signed by Judge David D. Dowd Jr. on 4/30/07.(M,De) (Entered: 05/01/2007)
06/25/2007	<u>24</u>	Proposed stipulated protective order filed by Old Reliable Wholesale, Inc.,

		Cornell Corporation. (Crooks, Walter) Modified text on 6/26/2007 (S, T). (Entered: 06/25/2007)
06/27/2007	<u>25</u>	Order re <u>24</u> Stipulation filed by Cornell Corporation and Old Reliable Wholesale, Inc. The Court has approved the Protective Order with an additional paragraph. Signed by Judge David D. Dowd Jr. on 6/26/2007. (M,De) (Entered: 06/27/2007)
06/27/2007	<u>26</u>	Stipulated Protective Order. Signed by Judge David D. Dowd Jr. on 6/26/2007.(M,De) (Entered: 06/27/2007)
07/23/2007	<u>27</u>	Attorney Appearance by Shannon V. McCue filed by Old Reliable Wholesale, Inc.. (McCue, Shannon) Modified text on 7/24/2007 (S, T). (Entered: 07/23/2007)
07/24/2007		Order (non-document) setting Status Conference for 10/19/2007 at 12:30 PM in Chambers 402 before Hon. David D. Dowd Jr. (Related Doc # <u>23</u>); NOTE CHANGE IN TIME ONLY. Approved by Judge David D. Dowd Jr. on 7/24/2007. (D,S) (Entered: 07/24/2007)
07/31/2007		(Court only) Staff Notes: On a call from counsel for both sides, I confirmed that the expert deadlines in <u>22</u> Order relate only to Markman experts. (D,S) (Entered: 07/31/2007)
10/19/2007		Minutes of proceedings [non-document]. Status Conference held on 10/19/2007 before Judge David D. Dowd Jr. Time: 35 Minutes. (Court Reporter none) (M,De) (Entered: 10/19/2007)
10/25/2007	<u>28</u>	Jointly Proposed <i>Claim Construction Schedule</i> filed by all parties. (McCue, Shannon) Modified text on 10/26/2007 (Baez, Ivonne). (Entered: 10/25/2007)
10/26/2007	<u>29</u>	Order approving the claim construction schedule jointly proposed by the parties. Signed by Judge David D. Dowd Jr. on 10/26/2007. (Attachments: # <u>1</u> Schedule) (D,S) (Entered: 10/26/2007)
11/21/2007	<u>30</u>	Markman Brief filed by Old Reliable Wholesale, Inc.. (Attachments: # <u>1</u> Affidavit of R. Eric Gaum, # <u>2</u> Exhibit 1 to Gaum Declaration, # <u>3</u> Exhibit 2 to Gaum Declaration, # <u>4</u> Exhibit 3 to Gaum Declaration, # <u>5</u> Exhibit 4 to Gaum Declaration, # <u>6</u> Exhibit 5 to Gaum Declaration)(McCue, Shannon) (Entered: 11/21/2007)
11/21/2007	<u>31</u>	Markman Brief (<i>incorporating Appendix</i>) filed by Cornell Corporation. (Skeriotis, John) (Entered: 11/21/2007)
12/05/2007	<u>32</u>	Response to Markman Brief filed by Old Reliable Wholesale, Inc. Related document(s) <u>30</u> , <u>31</u> . (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2)(McCue, Shannon) Modified document descriptions and docket entry relationships on 12/6/2007 (B,IE). Modified text on 12/6/2007 (P, S). (Entered: 12/05/2007)
12/05/2007	<u>33</u>	Answering Brief <i>in Response to ORW Opening Claim Construction Brief</i> (Related Document # <u>30</u>) filed by Cornell Corporation. (Schaap, Matthew) Modified text and added link on 12/6/2007 (P, S) (Entered: 12/05/2007)

12/05/2007	<u>34</u>	Affidavit/Declaration of <i>Matthew J. Schaap</i> filed by Cornell Corporation. Related document(s) <u>33</u> . (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7)(Schaap, Matthew) (Entered: 12/05/2007)
12/10/2007	<u>35</u>	Motion for leave to file surreply filed by Plaintiff Old Reliable Wholesale, Inc., Counter-Defendant Old Reliable Wholesale, Inc.. (Attachments: # <u>1</u> Pleading Surreply)(McCue, Shannon) (Entered: 12/10/2007)
12/11/2007		Order [non-document] granting Plaintiff's Motion for leave to file surreply (Related Doc # <u>35</u>). Approved by Judge David D. Dowd, Jr on 12/11/2007. (M,De) Modified text on 12/28/2007 (B,IE). (Entered: 12/11/2007)
12/11/2007	<u>36</u>	<i>Surreply</i> to <u>31</u> Cornell Corporation's Replay Markman Brief filed by Old Reliable Wholesale, Inc. (McCue, Shannon) Modified docket text and document relationship on 12/14/2007 (Baez, Ivonne). (Entered: 12/11/2007)
12/14/2007	<u>37</u>	Memorandum Opinion and Order construing the patent claim terms (Related Doc # <u>30</u> , <u>31</u>); the Markman hearing is cancelled and the court will instead hold a telephonic status conference on 12/21/2007 at 09:00 AM to discuss further proceedings, including motions on the merits, alternative dispute resolution, and a trial date; counsel for plaintiff shall arrange the call. Signed by Judge David D. Dowd, Jr on 12/14/2007. (Attachments: # <u>1</u> Patent drawings) (D,S) (Entered: 12/14/2007)
12/21/2007		Minutes of proceedings [non-document]. Status Conference held on 12/21/2007 before Judge David D. Dowd, Jr. Time: 40 Minutes. (Court Reporter none) (M,De) (Entered: 12/26/2007)
12/26/2007	<u>38</u>	Order setting Discovery cutoff as 3/7/2008. Defendant's expert report with respect to its defense of invalidity shall be served by January 18, 2008. Plaintiff shall have until February 15, 2008 to serve a rebuttal report, if any. Any depositions of experts must be completed by March 7, 2008. Summary judgment motions are due on March 28, 2008, with responses due on April 18, 2008 and replies, if any, due by May 1, 2008. Jury Trial set for 9/8/2008 at 8:30 a.m. on a standby basis before Judge David D. Dowd Jr. Signed by Judge David D. Dowd, Jr on 12/21/2007. (M,De) (Entered: 12/26/2007)
12/26/2007	<u>39</u>	Trial Order scheduling case for trial on a standby basis for the two-week period beginning 9/8/2008. Final Joint Stipulation due 9/2/2008. Signed by Judge David D. Dowd, Jr on 12/21/2007. (M,De) (Entered: 12/26/2007)
03/11/2008	<u>40</u>	Letter Requesting Telephone Conference Pursuant to Local Rule 37.1 (with Certificate of Service) filed by Cornell Corporation. (Schaap, Matthew) (Entered: 03/11/2008)
03/12/2008	<u>41</u>	Order that the parties are granted leave until March 28, 2008, to submit in writing a description of the nature of the discovery dispute and their respective positions. All dates and deadlines previously established in the case are vacated, including the trial date. A revised case management plan will be established upon resolution of the discovery dispute. (Related document <u>40</u>). Signed by Judge David D. Dowd, Jr on 3/12/08. (M,De) (Entered: 03/12/2008)

03/28/2008	<u>42</u>	Position Statement pursuant to Local Rule 37.1(a)(3) filed by Cornell Corporation. (Schaap, Matthew) Modified text on 3/31/2008 (M,TL). (Entered: 03/28/2008)
03/28/2008	<u>43</u>	Response to Cornell's Position on Discovery Dispute filed by Old Reliable Wholesale, Inc. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 10) (McCue, Shannon) Modified text on 3/31/2008 (M,TL). (Entered: 03/28/2008)
04/04/2008	<u>44</u>	Order re <u>42</u> Letter filed by Cornell Corporation, and <u>43</u> Response, filed by Old Reliable Wholesale, Inc. The Court intends to resolve this discovery dispute based on the submissions requested from the parties. While unsure as to why Cornell did not provide its full analysis in response to the Court's Order <u>41</u> , Cornell is granted leave until April 11, 2008, to do so. Signed by Judge David D. Dowd, Jr on 4/3/08. (M,De) (Entered: 04/04/2008)
04/11/2008	<u>45</u>	Supplemental Discovery Position Statement filed by Cornell Corporation. Related document(s) <u>42</u> . (Attachments: # <u>1</u> Exhibit No. 1)(Schaap, Matthew) Modified docket text on 4/14/2008 (B,IE). (Entered: 04/11/2008)
04/15/2008	<u>46</u>	Motion for leave to file Reply filed by Plaintiff Old Reliable Wholesale, Inc., Counter-Defendant Old Reliable Wholesale, Inc.. (Attachments: # <u>1</u> Pleading Reply to Cornell's Supplemental Position Statement)(McCue, Shannon) (Entered: 04/15/2008)
04/16/2008	<u>47</u>	Order granting plaintiff Old Reliable Wholesale's Motion for leave to reply to defendant's supplemental position statement <u>45</u> . (Related Doc # <u>46</u>). The Clerk will not automatically file the reply attached to plaintiff's motion. It is plaintiff's responsibility to file a clean copy now that the Court has granted leave. Signed by Judge David D. Dowd, Jr on 4/16/08. (M,De) (Entered: 04/16/2008)
04/16/2008	<u>48</u>	Old Reliable Wholesale's Reply to Cornell Corporation's Supplemental Discovery Position Statement filed by Old Reliable Wholesale, Inc.. Related document(s) <u>47</u> , <u>45</u> . (McCue, Shannon) (Entered: 04/16/2008)
06/04/2008	<u>49</u>	Memorandum Opinion and Order directing Plaintiff to file proper responses to Requests 44-46, 49-57, and 76-79 no later than Friday, June 13th, 2008. The delay in this case caused by the discovery dispute has necessitated a revision of the dispositive motion schedule and rescheduling of the trial date. Dispositive motions are now due on July 11, 2008, responses are due by August 1, 2008, and replies by August 15, 2008. The trial date is rescheduled on a standby basis for the two week period beginning November 3, 2008. A revised Trial Order will be separately published. Signed by Judge David D. Dowd, Jr on 6/4/2008. (M,De) (Entered: 06/04/2008)
06/04/2008	<u>50</u>	Trial Order scheduling jury trial on a standby basis for the two-week period beginning 11/3/2008 with final joint stipulation to be filed by 10/27/2008. Signed by Judge David D. Dowd, Jr on 6/4/2008. (M,De) (Entered: 06/04/2008)

06/25/2008	<u>51</u>	Joint Motion to stay proceedings and continue trial pending a ruling on upcoming summary judgment motions filed by Plaintiff Old Reliable Wholesale, Inc., Counter-Claimant Cornell Corporation, Counter-Defendant Old Reliable Wholesale, Inc., Defendant Cornell Corporation. (McCue, Shannon) Modified text on 6/26/2008 (P,G). (Entered: 06/25/2008)
06/26/2008	<u>52</u>	Order granting Joint Motion to stay proceedings and continue trial pending a ruling on upcoming summary judgment motions (Related Doc # <u>51</u>). Signed by Judge David D. Dowd, Jr on 6/26/08.(M,De) (Entered: 06/26/2008)
07/11/2008	<u>53</u>	Motion for summary judgment of <i>Patent Infringement</i> filed by Plaintiff Old Reliable Wholesale, Inc.. (Attachments: # <u>1</u> Brief in Support ORW's Memorandum of Law in Support of Its Motion for Summary Judgment of Patent Infringement, # <u>2</u> Affidavit Declaration of R. Eric Gaum, # <u>3</u> Exhibit 1 - U.S. Patent 5,069,950, # <u>4</u> Exhibit 2 - Assignment, # <u>5</u> Exhibit 3 - Cornell's Responses to Plaintiff's Second Set of Requests for Admissions and Corresponding Answers to Plaintiff's Interrogatories, # <u>6</u> Exhibit 4 - MSDS, # <u>7</u> Exhibit 5 - Brochure for Cornell's Vent-Top ThermaCal 1, # <u>8</u> Exhibit 6 - Brochure for Cornell's Vent-Top ThermaCal X1)(Gaum, Richard) (Entered: 07/11/2008)
07/11/2008	<u>54</u>	Motion for summary judgment filed by Counter-Claimant Cornell Corporation, Defendant Cornell Corporation. (Attachments: # <u>1</u> Brief in Support of Cornell Corporations Motion for Summary Judgment on Invalidity, # <u>2</u> Proposed Order, # <u>3</u> Certificate of Counsel, # <u>4</u> Exhibit A (Ray L. Weber Declaration), # <u>5</u> Exhibit B (Neil Goodall Declaration), # <u>6</u> Exhibit 1 to Exhibit B, # <u>7</u> Exhibit 2 to Exhibit B, # <u>8</u> Exhibit 3 to Exhibit B, # <u>9</u> Exhibit 4 to Exhibit B, # <u>10</u> Exhibit 5 to Exhibit B, # <u>11</u> Exhibit 6 to Exhibit B, # <u>12</u> Exhibit 7 to Exhibit B, # <u>13</u> Exhibit 8 to Exhibit B, # <u>14</u> Exhibit 9 to Exhibit B, # <u>15</u> Exhibit 10 to Exhibit B, # <u>16</u> Exhibit 11 to Exhibit B, # <u>17</u> Exhibit 12 to Exhibit B, # <u>18</u> Exhibit 13 to Exhibit B, # <u>19</u> Exhibit 14 to Exhibit B, # <u>20</u> Exhibit 15 to Exhibit B, # <u>21</u> Exhibit 16 to Exhibit B, # <u>22</u> Exhibit 17 to Exhibit B, # <u>23</u> Exhibit 18 to Exhibit B, # <u>24</u> Exhibit 19 to Exhibit B, # <u>25</u> Exhibit 20 to Exhibit B, # <u>26</u> Exhibit 21 to Exhibit B, # <u>27</u> Exhibit C (David Tonnancour Declaration), # <u>28</u> Exhibit 1 to Exhibit C, # <u>29</u> Exhibit 2 to Exhibit C, # <u>30</u> Exhibit 3 to Exhibit C, # <u>31</u> Exhibit 4 to Exhibit C, # <u>32</u> Exhibit 5 to Exhibit C, # <u>33</u> Exhibit 6 to Exhibit C, # <u>34</u> Exhibit 7 to Exhibit C, # <u>35</u> Exhibit 8 to Exhibit C, # <u>36</u> Exhibit 9 to Exhibit C, # <u>37</u> Exhibit 10 to Exhibit C, # <u>38</u> Exhibit 11 to Exhibit C, # <u>39</u> Exhibit 12 to Exhibit C, # <u>40</u> Exhibit 13 to Exhibit C, # <u>41</u> Exhibit D (Nadia Z. Strenk Declaration), # <u>42</u> Exhibit E (Matthew J. Schaap Declaration), # <u>43</u> Exhibit 1 to Exhibit E, # <u>44</u> Exhibit 2 to Exhibit E, # <u>45</u> Exhibit 3 to Exhibit E, # <u>46</u> Exhibit 4 to Exhibit E, # <u>47</u> Exhibit 5 to Exhibit E, # <u>48</u> Exhibit 6 to Exhibit E, # <u>49</u> Exhibit 7 to Exhibit E, # <u>50</u> Exhibit 8 to Exhibit E, # <u>51</u> Exhibit 9 to Exhibit E, # <u>52</u> Exhibit 10 to Exhibit E, # <u>53</u> Exhibit 11 to Exhibit E, # <u>54</u> Exhibit 12 to Exhibit E, # <u>55</u> Exhibit 13 to Exhibit E, # <u>56</u> Exhibit 14 to Exhibit E, # <u>57</u> Exhibit 15-1 to Exhibit E, # <u>58</u> Exhibit 15-2 to Exhibit E, # <u>59</u> Exhibit 16-1 to Exhibit E, # <u>60</u> Exhibit 16-2 to Exhibit E, # <u>61</u> Exhibit 17 to Exhibit E)(Schaap, Matthew) (Entered: 07/11/2008)